

RECORD OF ORAL HEARING  
UNITED STATES PATENT AND TRADEMARK OFFICE

-----

BEFORE THE PATENT TRIAL AND APPEAL BOARD

-----

FINJAN, INC.,

Petitioner,

v.

FIREEYE, INC.,

Patent Owner.

-----

Cases IPR2014-00344 and IPR2014-00492

U.S. Patents 8,291,499 and 8,171,553

Technology Center 2400

-----

Oral Hearing Held on Tuesday, March 31, 2015

-----

Before: BRYAN F. MOORE, LYNNE E. PETTIGREW, and  
FRANCES L. IPPOLITO (via video link), *Administrative Patent Judges*.

The above-entitled matter came on for hearing on Tuesday, March 31, 2015, at 2:00 p.m., in Hearing Room A, taken at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Cases IPR2014-00344 and IPR2014-00492  
U.S. Patents 8,291,499 and 8,171,553

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JAMES HANNAH, ESQ.  
MICHAEL LEE, ESQ.  
Kramer Levin Naftalis & Frankel LLP  
990 Marsh Road  
Menlo Park, California 94025-1949  
650-752-1700

Phil Hartstein, President & CEO  
Julie Y. Mar-Spinola, Chief IP Officer  
Finjan, Inc.

ON BEHALF OF THE PATENT OWNER:

DAVID L. McCOMBS, ESQ.  
THOMAS KING, ESQ.  
Haynes and Boone, LLP  
2323 Victory Avenue  
Suite 700  
Dallas, Texas 75219  
214-651-5000

Gary Ross, Director of Patents  
FireEye, Inc.

1 P R O C E E D I N G S

2 (2:00 p.m.)

3 JUDGE MOORE: Please be seated. Good  
4 morning. I'm Judge Bryan Moore. With me on the bench is  
5 Judge Lynne Pettigrew, and to my left appearing by video is  
6 Judge Ippolito.

7 We are here this morning for the oral argument on  
8 two inter partes reviews, IPR2014-00344 and 2014-00492.

9 According to Judge Ippolito's trial order, each  
10 party will have one hour of total time to present argument. A  
11 party may allot time between the two cases as it wishes.

12 Finjan bears the ultimate burden of proof that  
13 FireEye's claims at issue within these reviews is unpatentable.  
14 Finjan will then, therefore, begin by presenting its case  
15 regarding the challenged claims and grounds for which the  
16 Board instituted the proceedings.

17 FireEye will then respond to Finjan's argument.  
18 Finjan may reserve time to respond to arguments presented by  
19 FireEye.

20 Just as a note, I'm not sure if there will be  
21 objections to material being -- arguments that are new or  
22 beyond the scope of the original petition. If there are such  
23 arguments, please hold objection until the end of the other  
24 side's presentation and bring those issues up after.

25 So with that, we will begin with Finjan.

1           MR. HANNAH: Thank you, Your Honor. We have  
2 paper copies of the presentation. Would that be helpful for  
3 Your Honors?

4           JUDGE MOORE: Sure, that's fine.

5           MR. HANNAH: May I approach?

6           JUDGE MOORE: Sure.

7           Actually before we begin, just for the record, if  
8 you could identify yourself and who is with you and we will  
9 also have the other side identify themselves.

10          MR. HANNAH: Absolutely. Thank you, Your  
11 Honor. My name is James Hannah. I'm from the law firm of  
12 Kramer Levin Naftalis & Frankel. With me is my colleague,  
13 Michael Lee, also from Kramer Levin.

14          In the back we have two Finjan representatives.  
15 Mr. Phil Hartstein is the President and CEO of Finjan, and we  
16 have Julie Mar-Spinola, who is the Chief IP Officer of Finjan.

17          JUDGE MOORE: Thank you. And just for the  
18 record, FireEye.

19          MR. McCOMBS: Yes, Your Honor. I'm David  
20 McCombs and I'm with Haynes and Boone. With me is my  
21 colleague, Tom King. We are here on behalf of FireEye.

22          Also joining us is Gary Ross, the Director of  
23 Patents for FireEye.

24          JUDGE MOORE: Proceed.

1           MR. HANNAH: Thank you, Your Honors. May it  
2 please the Court. Finjan brought this petition against FireEye.  
3 And as Your Honors note, this is the oral hearing for case  
4 2014-00344 involving 8,291,499, and case 2014-00492 for  
5 Patent Number 8,171,553.

6           I would like to reserve 15 minutes for rebuttal of  
7 my time and so I will cut my presentation off at 45 minutes for  
8 that rebuttal.

9           Finjan, by way of background, is a company  
10 founded in 1996 to protect against Internet-borne security  
11 threats. Today Finjan is a publicly-traded NASDAQ company,  
12 also focusing on research and development. It is currently  
13 developing and will be releasing in the springtime a mobile  
14 security product for Internet-based security.

15           It also focuses a lot of its effort in terms of  
16 investing in technology companies and the like, also in the  
17 security space.

18           I will try to enumerate the slides as I go through  
19 pursuant to the order. I hope that helps Your Honors.

20           JUDGE MOORE: Okay. I have been informed that  
21 there may be some background noise which is impeding Judge  
22 Ippolito. So I don't know if it is possible to turn or bring your  
23 mic slightly closer to you. That might be helpful.

24           MR. HANNAH: Is that better, Your Honor?

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.